

NIGHT BOX  
FILED

JUN 14 2000

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

U.S. DISTRICT COURT  
CLERK'S OFFICE  
MIAMI, FLORIDA

Case No.

~~00-2142~~

**CIV-LENARD**

JUDICIAL WATCH OF FLORIDA, INC.,  
International Place  
100 S.E. 2nd Street  
Suite 3920  
Miami, Florida 33131

MAGISTRATE JUDGE  
TURNOFF

Plaintiff,

v.

UNITED STATES DEPARTMENT OF  
JUSTICE  
10th and Constitution, Ave., N.W.  
Washington, DC 20530,

and

IMMIGRATION AND NATURALIZATION  
SERVICE  
425 Eye Street, NW  
Department of Justice  
Washington, DC 20536,

Defendants.

**COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

Comes now Plaintiff, Judicial Watch of Florida, Inc., and hereby files a complaint for compliance with the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* ("FOIA"). Plaintiff respectfully alleges as follows:

**JURISDICTION AND VENUE**

1. This court has jurisdiction over this action pursuant to 28 U.S.C. § 1346(a)(2) (United States as defendant), and 5 U.S.C. § 552(a)(4)(B) (FOIA).

*[Handwritten signature]*

2. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B).

### **PARTIES**

3. Plaintiff, whose principal place of business is International Place, Suite 3920, 100 S.E., Second Street, Miami, Florida 33131, is organized as a non-profit corporation under the laws of the State of Florida. Plaintiff, who requested certain documents under FOIA, intends to disseminate the requested documents to its supporters and benefactors, government officials, appropriate news media, and to the American public at large. The documents Plaintiff seeks are likely to contribute significantly to the public's understanding of the operations and activities of Defendants United States Department of Justice and Immigration and Naturalization Service. Plaintiff is empowered to undertake educational and other programs to promote and protect the public interest in connection with this and other matters.

4. Defendant United States Department of Justice (DOJ) is an agency and entity of the United States Government. Defendant DOJ has possession of the documents to which Plaintiff seeks access.

5. Defendant Immigration and Naturalization Service (INS) is an agency and entity of the United States Government. Defendant INS has possession of the documents to which Plaintiff seeks access.

### **COUNT I**

6. Plaintiff filed with Defendant DOJ on April 10, 2000, *via* facsimile and certified mail, a FOIA request (*see* Exhibit 1) in the form of a letter to Defendant's Freedom of Information Act Officer, requesting access to certain records under FOIA. Access was requested to "all correspondence, memoranda, documents, records, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records, tape recordings,

notes, photographs, electronic mail, and other documents and things, that refer or relate to the following in any way:

- a. Communication to or from Mr. Gregory B. Craig, Esq., concerning Elian Gonzales and/or Juan Miguel Gonzales Quintana (Elian's father);
- b. Communication to or from the National Security Council, State Department, and/or Executive Office of the President concerning Mr. Gregory B. Craig, Esq., Elian Gonzales and/or Juan Miguel Gonzales Quintana (Elian's father);
- c. Consultations with "top officials of the White House" by Mr. Gregory B. Craig, Esq., concerning Elian Gonzales and/or Juan Miguel Gonzales Quintana (Elian's father);
- d. Decision(s) by Attorney General Janet Reno, the Department of Justice, the Immigration and Naturalization Service, and/or other persons and entities to return Elian Gonzales to the custody of his biological father in Cuba.

7. As of June 13, 2000, Plaintiff has received no substantive response to its FOIA request of April 10, 2000 from Defendant DOJ.

8. Pursuant to 5 U.S.C. § 552(a)(6)(C), Plaintiff shall be deemed to have exhausted its administrative remedies with respect to its April 10, 2000 FOIA request to Defendant DOJ.

9. Plaintiff filed with Defendant DOJ on April 25, 2000, *via* facsimile and certified mail, a FOIA request (*see* Exhibit 2) in the form of a letter to Defendant DOJ's Freedom of Information Act Officer, requesting access to certain records under FOIA. Access was requested to "all correspondence, memoranda, documents, reports, records, statements, audits, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records, tape recordings, video recordings, notes, examinations, opinions, folders, files, books, manuals, pamphlets, forms, drawings, charts, photographs, electronic mail, and other

documents and things, that refer or relate to the following in any way:

a. Decision(s) by Commissioner Doris M. Meissner, the Attorney General, the Immigration and Naturalization Service, the Department of Justice and/or other persons and entities to return Elian Gonzalez to the custody of Juan Miguel Gonzalez.

b. Decision(s) by Commissioner Doris M. Meissner, Attorney General Janet Reno, the Department of Justice, the Immigration and Naturalization Service, and/or other persons and entities to conduct a raid on the residence of Lazaro Gonzalez in order to seize and take custody of Elian Gonzalez on the morning of Saturday, April 22, 2000.

c. The warrant and supporting affidavit(s) authorizing the Immigration and Naturalization Service's raid on the residence of Lazaro Gonzalez in order to seize and take custody of Elian Gonzalez on the morning of Saturday, April 22, 2000.

d. The raid on the residence of Lazaro Gonzalez in order to seize and take custody of Elian Gonzalez on the morning of Saturday, April 22, 2000.

e. Intelligence reports "...that indicated that perhaps there were weapons in the house." as cited by Deputy Attorney General Eric Holder during his April 24, 2000 appearance on ABC's "This Week" television program.

10. As of June 13, 2000, Plaintiff has received no substantive response to its FOIA request of April 25, 2000 from Defendant DOJ.

11. Pursuant to 5 U.S.C. § 552(a)(6)(C), Plaintiff shall be deemed to have exhausted its administrative remedies with respect to its April 25, 2000 FOIA request to Defendant DOJ.

12. Plaintiff filed with Defendant INS on April 25, 2000, *via* facsimile and certified mail, a FOIA request (*see* Exhibit 3) in the form of a letter to Defendant DOJ's Freedom of Information Act Officer, requesting access to certain records under FOIA. Access was requested

to “all correspondence, memoranda, documents, reports, records, statements, audits, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records, tape recordings, video recordings, notes, examinations, opinions, folders, files, books, manuals, pamphlets, forms, drawings, charts, photographs, electronic mail, and other documents and things, that refer or relate to the following in any way:

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b. Decision(s) by Commissioner Doris M. Meissner, Attorney General Janet Reno, the Department of Justice, the Immigration and Naturalization Service, and/or other persons and entities to conduct a raid on the residence of Lazaro Gonzalez in order to seize and take custody of Elian Gonzalez on the morning of Saturday, April 22, 2000.

c. The warrant and supporting affidavit(s) authorizing the Immigration and Naturalization Service’s raid on the residence of Lazaro Gonzalez in order to seize and take custody of Elian Gonzalez on the morning of Saturday, April 22, 2000.

d. The raid on the residence of Lazaro Gonzalez in order to seize and take custody of Elian Gonzalez on the morning of Saturday, April 22, 2000.

e. Intelligence reports “...that indicated that perhaps there were weapons in the house.” as cited by Deputy Attorney General Eric Holder during his April 24, 2000 appearance on ABC’s “This Week” television program.

13. As of June 13, 2000, Plaintiff has received no substantive response to its FOIA request of April 25, 2000 from Defendant INS.

14. Pursuant to 5 U.S.C. § 552(a)(6)(C), Plaintiff shall be deemed to have exhausted its

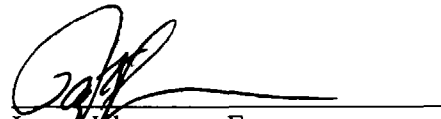
administrative remedies with respect to its April 25, 2000 FOIA request to Defendant INS.

15. Pursuant to 5 U.S.C. § 552(a)(3), Plaintiff has a right of access to the documents requested in its FOIA request of April 10 and April 25, 2000, and Defendants have no legal basis for refusing to disclose these documents to Plaintiff.

WHEREFORE, Plaintiff prays that this Court: (1) declare that Defendants refusal to disclose the documents requested by Plaintiff is unlawful; (2) order Defendants to make the requested documents available to Plaintiff; (3) grant Plaintiff's request for a fee waiver; (4) award Plaintiff its costs and reasonable attorneys' fees in this action; and (5) grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

JUDICIAL WATCH OF  
FLORIDA , INC.



Larry Klayman, Esq.  
Florida Bar No. 0246220  
501 School Street, S.W., Suite 725  
Washington, DC 20024  
Phone: (202) 646-5172  
Fax: (202) 646-5199  
Attorneys for Plaintiff



Of Florida, Inc.

April 10, 2000

ATTACHMENT / EXHIBIT 1

**VIA CERTIFIED MAIL AND FACSIMILE (202) 514-1009**

The Honorable Janet Reno  
c/o Ms. Melanie Ann Pustay  
Deputy Director, Office of Information and Privacy  
Suite 570, Flag Building  
1310 G Street, NW  
Washington, DC 20530

Re: Freedom of Information Act Request.

Dear Ms. Reno:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, and its regulations, we hereby request from the Department of Justice, all correspondence, memoranda, documents, records, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records, tape recordings, notes, photographs, electronic mail, and other documents and things, that refer or relate to the following in any way:

1. Communication to or from Mr. Gregory B. Craig, Esq. Concerning Elian Gonzales and/or Juan Miguel Gonzales Quintana (Elian's father).
2. Communication to or from the National Security Counsel, State Department and/or Executive Office of the President concerning Mr. Gregory B. Craig, Esq., Elian Gonzales, and/or Juan Miguel Gonzales Quintana (Elian's father).
3. Consultations with "top officials of the White House" by Mr. Gregory B. Craig, Esq.,

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International Place, Suite 3920, 100 S.E. 2<sup>nd</sup> Street

Miami, Florida 33131

concerning Elian Gonzales, and/or Juan Miguel Gonzales Quintana (Elian's father).<sup>1</sup>

4. Decision(s) by Commissioner Doris M. Meissner, the Attorney General, the Immigration and Naturalization Service, the Department of Justice and/or other persons and entities to return Elian Gonzales to the custody of his biological father in Cuba.

Thank you for your expected cooperation in responding timely to our request, which should be within 20 days as required under the Act, because time is of the essence.

Pursuant to the FOIA, if any portions of the requested documents are claimed to be privileged, those portions which are not claimed to be privileged should be provided to the undersigned. This should be done prior to the conclusion of the statutory 20-day period for response. In addition, under the FOIA there is an absolute requirement to produce those segregable portions of documents which are not claimed to be privileged, as well as a list ("Vaughn Index") that indicates by date, author, general subject matter, and claims of privilege(s) those documents, or portions thereof, which have been withheld or not provided. Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir 1973), cert. denied, 415 U.S. 977 (1974); Iglesias v. Central Intelligence Agency, 525 F. Supp. 547 (D.C. 1981); see generally LaRocca v. State Farm Mut. Auto. Ins. Co., 47 F.R.D. 278 (W.D. Pa. 1985).

We note that President Clinton instructed agencies in October, 1993, to ensure compliance with both the spirit as well as the letter of the Act. *See* President Clinton's FOIA Memorandum, U.S. Department of Justice, FOIA Update, Summer/Fall 1993, at 3. In addition, Attorney General Reno issued a FOIA Memorandum in October, 1993, which *inter alia* states "I strongly encourage your FOIA officers to make 'discretionary disclosures' whenever possible under the Act," and

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<sup>1</sup> John M. Broder, "For Elian's Father, a Lawyer With Ties to Clinton," The New York Times, April 4, 2000, at A10.



orders “a presumption of disclosure.” See Attorney General Reno’s FOIA Memorandum , U.S. Department of Justice, FOIA Update, Spring 1994, at 1-2.

Judicial Watch of Florida, Inc., also respectfully requests a blanket fee waiver on behalf of the public interest, to which it is entitled under 5 U.S.C. § 552(a)(4)(A); see also, *Larson v. Central Intelligence Agency*, 843 F.2d 1482, 1483 (D.C.Cir. 1988); *National Sec. Archive v. U.S. Dept. of Defense*, 880 F.2d 1381, 1385-87 (D.C.Cir. 1989); see also, *Judicial Watch, Inc. v. United States Dep’t. of Commerce*, No. 95-0133 (D.D.C. May 16, 1995) (order granting Judicial Watch, Inc.’s request for fee waiver with regard to all responsive documents in proceeding).

Judicial Watch of Florida, Inc., is a non-profit, non-partisan, tax-exempt 501(c)(3) organization which as a public interest law firm specializes in deterring, monitoring, uncovering, and addressing public corruption in government. Judicial Watch of Florida has and will hold Republicans, Democrats, Independents, and others equally accountable to ethical and legal standards for honest and open government.

The requester has no commercial purpose as a 501(c)(3) non-profit organization organized exclusively to improve the ethical and legal standards in government, accountability of government officials to the rule of law, and public understanding of government operations.

Judicial Watch of Florida will also use the requested material to promote accountable government as a representative of the news media and the public in accordance with a second category provided under 5 U.S.C. § 552(a)(4)(A)(ii)(II) and *National Sec. Archive v. U.S. Dept. of Defense*, 880 F.2d 1381, 1385-87 (D.C.Cir. 1989), by disseminating relevant information which may be uncovered. Information will benefit the public by identifying areas for future reform as well as deterring future abuses that could otherwise proliferate without scrutiny.

Judicial Watch of Florida has several mechanisms which will ensure rapid dissemination of

information brought to light by this request. First, when Judicial Watch of Florida obtains responsive documents, it allows reporters into its offices to inspect the documents. These reporters then write stories based on information contained in the documents, which in appear nationwide in newspapers and magazines. Second, Judicial Watch of Florida produces several press releases per week which are "blast faxed" to hundreds of radio and television stations and newspapers around the country. Third, Judicial Watch of Florida maintains a website on which people can view copies of, among other things, press releases, responsive documents, deposition transcripts, and court opinions. Fourth, on Saturday, November 13, 1999, began a weekly two hour radio broadcast entitled "The Judicial Watch Report." The Judicial Watch Report is broadcast to major radio stations nationwide, and will, in part, provide to the public further information gleaned from its FOIA requests. Finally, Larry Klayman, the Chairman of Judicial Watch and Judicial Watch of Florida, and other Judicial Watch employees frequently appear on nationally broadcast radio and television programs. All of these facts demonstrate Judicial Watch of Florida's ability to disseminate information to the public and educate the public about the operations and activities of its government.

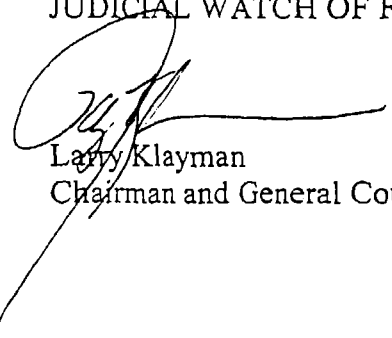
The subject of this request is information concerning the operations and activities of the government. Past experience of Judicial Watch of Florida demonstrates the success of Judicial Watch of Florida in uncovering important facts about government activities, integrity and operations, of broad concern to the public. Thus, Judicial Watch of Florida's request is likely to "contribute significantly" to the public's understanding of the operations of their government, satisfying the requirements of FOIA fee waiver provisions. Judicial Watch of Florida's capabilities and effectiveness are a matter of public record.

Immediate release of the requested information is in the public interest, including for promoting confidence in an honest democratic system, and furthering the integrity of the American

national government by deterring and/or sanctioning corrupt activities. The failure to do so will likely result in the further compromise of important interests of the American people.

Sincerely,

JUDICIAL WATCH OF FLORIDA, INC.



Larry Klayman  
Chairman and General Counsel

LEV. 1 OF 2 STORIES

Copyright 2000 The New York Times Company  
The New York Times

April 4, 2000, Tuesday, Late Edition - Final

SECTION: Section A; Page 16; Column 1; National Desk

LENGTH: 753 words

HEADLINE: For Elian's Father, a Lawyer With Ties to Clinton

BYLINE: By JOHN M. BRODER

DATELINE: WASHINGTON, April 3

BODY:

On the wall of Gregory B. Craig's office at the powerhouse law firm Williams & Connolly here is a fading photograph taken 14 years ago of Mr. Craig shaking hands with a gaunt 60-year-old Cuban-American man at Homestead Air Force Base south of Miami.

The picture was taken the day in 1986 when the man, Col. Ricardo Montero Duque, was released from a Cuban jail after serving 25 years for counterrevolutionary violence. Colonel Duque was the last imprisoned senior officer from the brigade of Cuban exiles who stormed the shores of Cuba in the futile Bay of Pigs invasion of 1961.

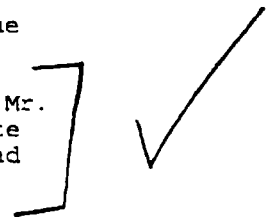
President Fidel Castro of Cuba set Colonel Duque free at the urging of Senator Edward M. Kennedy, who sent his senior foreign policy aide, Mr. Craig, to Cuba to accompany him home.

Now, Mr. Craig is embroiled in another situation involving Cuban-American relations, this time as the lawyer for Juan Miguel Gonzalez, father of the 6-year-old shipwreck victim, Elian.

Mr. Craig's appearance as Mr. Gonzalez's lawyer has been a bit of a surprise to official Washington, which last saw him delivering a defense of presidential peccadilloes before the House Judiciary Committee.

President Clinton enlisted Mr. Craig to coordinate his legal and political defense against impeachment charges in part because of longtime personal ties: Mr. Craig was friendly with Mr. Clinton and Hillary Rodham Clinton at Yale Law School in the 1970's. But the White House also sought Mr. Craig's services because of his well-tuned ear for Congressional politics and ability to pursue an aggressive legal strategy.

When he was approached by representatives of church groups sympathetic to Mr. Gonzalez, he accepted the job after consulting with top officials of the White House, the Department of Justice and the State Department, where Mr. Craig had been director of the policy planning staff earlier in the Clinton administration.



The New York Times, April 4, 2000

The Rev. Joan Brown Campbell, until recently the general secretary of the National Council of Churches, recruited Mr. Craig in March to represent Mr. Gonzalez on the advice of Sen. Patrick J. Leahy, a Democrat who represents Mr. Craig's native state, Vermont. She said it was clear that Mr. Gonzalez needed an American lawyer who could navigate the perilous political and legal currents that enveloped the case.

She is also coordinating the private fund-raising to pay his fees, which he has agreed to moderate from the firm's customary \$400 to \$500 an hour. Ms. Campbell said she had already raised \$60,000.

Mr. Craig, who is 55, has served as advocate for a number of unpopular clients and causes.

He helped construct the successful insanity defense of John W. Hinckley, the assailant who almost killed President Ronald Reagan in 1981. He advised his former boss, Senator Kennedy, in the Florida rape case involving Mr. Kennedy's nephew William Kennedy Smith.

He represented one of Haiti's wealthiest families, the Mevs, in their efforts to persuade the Bush and Clinton administrations to protect their sugar and oil interests in the political chaos following the overthrow of Jean-Bertrand Aristide.

Mr. Craig's experience has been put to work in the tense negotiations between the Justice Department and Elian's Florida relatives, and as Mr. Gonzalez and other family members in Cuba prepare to travel to the United States to be with Elian while the legal process plays out.

In an interview today, Mr. Craig said he felt strongly that Mr. Gonzalez should be peacefully and quickly reunited with his son; he had harsh words for the Cuban-Americans in Miami threatening to try to prevent the boy's return to Cuba.

Mr. Craig said he believed that Mr. Gonzalez, his new wife and his children would be in danger in Miami because of the depth of feeling the case has aroused and would be safer waiting in the nation's capital.

"They are better off here in Washington than in South Florida," he said. "There is a quasi-insurgency underway down there with emotions very, very high and people announcing their willingness to sacrifice their lives. I take that at face value."

In Washington, Mr. Craig said, sentiments are less passionate, though no less treacherous. As for Vice President Al Gore, who last week broke with the administration and sided with the Miami relatives and those seeking political advantage by advocating their position, Mr. Craig adopted a diplomatic silence.

"I am in agreement with the position taken by the president and the attorney general," he emphasized. "Enough said."

<http://www.nytimes.com>

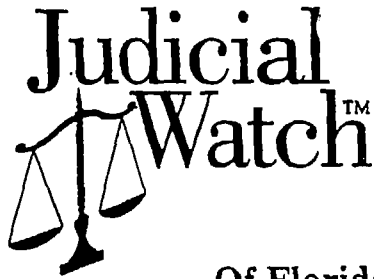
The New York Times, April 4, 2000

AGE 3

GRAPHIC: Photo: Gregory B. Craig, no stranger to Cuban-American affairs, is now representing the father of Elian Gonzalez. (Paul Hosefros/The New York Times)

LANGUAGE: ENGLISH

LOAD-DATE: April 4, 2000



Of Florida, Inc.

April 25, 2000

ATTACHMENT / EXHIBIT 2

**VIA CERTIFIED MAIL AND FAX (202-514-1009)**

Office of the Attorney General  
Attn: Melanie Pustay  
Deputy Director, Office of Information and Privacy  
Department of Justice  
Suite 750, Flag Building  
Washington, D.C. 20530-0001

Re: Freedom of Information Act Request.

Dear Ms. Pustay:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, and its regulations, we hereby request from the Office of the Attorney General, all correspondence, memoranda, documents, reports, records, statements, audits, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records, tape recordings, video recordings, notes, examinations, opinions, folders, files, books, manuals, pamphlets, forms, drawings, charts, photographs, electronic mail, and other documents and things, that refer or relate to the following in any way:

1. Decision(s) by Attorney General Janet Reno, the Department of Justice, the Immigration and Naturalization Service, and/or other persons and entities to return Elian Gonzalez to the custody of Juan Miguel Gonzalez.

2. Decision(s) by Attorney General Janet Reno, the Department of Justice, the

**International Place, Suite 3920, 100 S.E. 2<sup>nd</sup> Street**

**Miami, Florida 33131**

Immigration and Naturalization Service, and/or other persons and entities to conduct a raid on the residence of Lazaro Gonzalez in order to seize and take custody of Elian Gonzalez on the morning of Saturday, April 22, 2000.

3. The warrant and supporting affidavit(s) authorizing the Immigration and Naturalization Service's raid on the residence of Lazaro Gonzalez in order to seize and take custody of Elian Gonzalez on the morning of Saturday, April 22, 2000.
4. The raid on the residence of Lazaro Gonzalez in order to seize and take custody of Elian Gonzalez on the morning of Saturday, April 22, 2000.
5. Intelligence reports ". . .that indicated that perhaps there were perhaps weapons in the house." as cited by Deputy Attorney General Eric Holder during his April 24, 2000 appearance on ABC's "This Week" television program.

Thank you for your expected cooperation in responding timely to our request, which should be within 20 working days as required under the Act, because time is of the essence.

Pursuant to the FOIA, if any portions of the requested documents are claimed to be privileged, those portions which are not claimed to be privileged should be provided to the undersigned. This should be done prior to the conclusion of the statutory 20-day period for response. In addition, under the FOIA there is an absolute requirement to produce those segregable portions of documents which are not claimed to be privileged, as well as a list ("Vaughn Index") that indicates by date, author, general subject matter, and claims of privilege(s) those documents, or portions thereof, which have been withheld or not provided. Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir 1973), cert. denied, 415 U.S. 977 (1974); Iglesias v. Central Intelligence Agency, 525 F. Supp. 547 (D.C. 1981); see generally LaRocca v. State Farm Mut. Auto. Ins. Co., 47 F.R.D. 278 (W.D. Pa. 1985).



We note that President Clinton instructed agencies in October, 1993, to ensure compliance with both the spirit as well as the letter of the Act. *See* President Clinton's FOIA Memorandum, U.S. Department of Justice, FOIA Update, Summer/Fall 1993, at 3. In addition, Attorney General Reno issued a FOIA Memorandum in October, 1993, which *inter alia* states "I strongly encourage your FOIA officers to make 'discretionary disclosures' whenever possible under the Act," and orders "a presumption of disclosure." *See* Attorney General Reno's FOIA Memorandum, U.S. Department of Justice, FOIA Update, Spring 1994, at 1-2.

Judicial Watch of Florida also respectfully requests a blanket fee waiver on behalf of the public interest, to which it is entitled under 5 U.S.C. § 552(a)(4)(A); *see also*, *Larson v. Central Intelligence Agency*, 843 F.2d 1482, 1483 (D.C.Cir. 1988); *National Sec. Archive v. U.S. Dept. of Defense*, 880 F.2d 1381, 1385-87 (D.C.Cir. 1989); *see also*, *Judicial Watch, Inc. v. United States Dep't. of Commerce*, No. 95-0133 (D.D.C. May 16, 1995) (order granting Judicial Watch, Inc.'s request for fee waiver with regard to all responsive documents in proceeding).

Judicial Watch of Florida, Inc. is a non-profit, 501(c)(4) organization which specializes in deterring, monitoring, uncovering, and addressing public corruption in government. Judicial Watch of Florida has and will hold Republicans, Democrats, Independents, and others equally accountable to ethical and legal standards for honest and open government.

The requester has no commercial purpose as a 501(c)(4) non-profit organization organized to improve the ethical and legal standards in government, accountability of government officials to the rule of law, and public understanding of government operations.

Judicial Watch of Florida will also use the requested material to promote accountable government as a representative of the news media and the public in accordance with a second category provided under 5 U.S.C. § 552(a)(4)(A)(ii)(II) and *National Sec. Archive v. U.S. Dept. of Defense*, 880 F.2d 1381, 1385-87 (D.C.Cir. 1989), by disseminating relevant information which may be uncovered. Information will benefit the public by identifying areas for future

reform as well as deterring future abuses that could otherwise proliferate without scrutiny.

The subject of this request is information concerning the operations and activities of the government. Past experience of Judicial Watch demonstrates the success of Judicial Watch in uncovering important facts about government activities, integrity and operations, of broad concern to the public. Thus, Judicial Watch's request is likely to "contribute significantly" to the public's understanding of the operations of their government, satisfying the requirements of FOIA fee waiver provisions. Judicial Watch's capabilities and effectiveness are a matter of public record.

Immediate release of the requested information is in the public interest, including for promoting confidence in an honest democratic system, and furthering the integrity of the American national government by deterring and/or sanctioning corrupt activities. The failure to do so will likely result in the further compromise of important interests of the American people.

Sincerely,

JUDICIAL WATCH OF FLORIDA, INC.

A handwritten signature in black ink that reads "Larry Klayman" followed by a stylized "1110" or similar mark.

Larry Klayman, Esq.



Of Florida, Inc.

April 25, 2000

ATTACHMENT / EXHIBIT 3

**VIA CERTIFIED MAIL AND FAX (202-353-8166)**

Ms. Magda Ortiz  
Director  
Freedom of Information Act/Privacy Act Program  
Immigration and Naturalization Service  
2<sup>nd</sup> Floor  
425 Eye Street, NW  
Department of Justice  
Washington, D.C. 20536

Re: Freedom of Information Act Request.

Dear Ms. Ortiz:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, and its regulations, we hereby request from the Office of the Commissioner of the Immigration and Naturalization Service, all correspondence, memoranda, documents, reports, records, statements, audits, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records, tape recordings, video recordings, notes, examinations, opinions, folders, files, books, manuals, pamphlets, forms, drawings, charts, photographs, electronic mail, and other documents and things, that refer or relate to the following in any way:

1. Decision(s) by Commissioner Doris M. Meissner, the Attorney General, the Immigration and Naturalization Service, the Department of Justice and/or other persons and entities to return Elian Gonzalez to the custody of Juan Miguel Gonzalez.

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Miami, Florida 33131

2. Decision(s) by Commissioner Doris M. Meissner, Attorney General Janet Reno, the Department of Justice, the Immigration and Naturalization Service, and/or other persons and entities to conduct a raid on the residence of Lazaro Gonzalez in order to seize and take custody of Elian Gonzalez on the morning of Saturday, April 22, 2000.
3. The warrant and supporting affidavit(s) authorizing the Immigration and Naturalization Service's raid on the residence of Lazaro Gonzalez in order to seize and take custody of Elian Gonzalez on the morning of Saturday, April 22, 2000.
4. The raid on the residence of Lazaro Gonzalez in order to seize and take custody of Elian Gonzalez on the morning of Saturday, April 22, 2000.
5. Intelligence reports "...that indicated that perhaps there were perhaps weapons in the house." as cited by Deputy Attorney General Eric Holder during his April 24, 2000 appearance on ABC's "This Week" television program.

Thank you for your expected cooperation in responding timely to our request, which should be within 20 working days as required under the Act, because time is of the essence.

Pursuant to the FOIA, if any portions of the requested documents are claimed to be privileged, those portions which are not claimed to be privileged should be provided to the undersigned. This should be done prior to the conclusion of the statutory 20-day period for response. In addition, under the FOIA there is an absolute requirement to produce those segregable portions of documents which are not claimed to be privileged, as well as a list ("Vaughn Index") that indicates by date, author, general subject matter, and claims of privilege(s) those documents, or portions thereof, which have been withheld or not provided. Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir 1973), cert. denied, 415 U.S. 977 (1974); Iglesias v. Central Intelligence Agency, 525 F. Supp. 547 (D.C. 1981); see generally LaRocca v. State Farm Mut. Auto. Ins. Co., 47 F.R.D. 278 (W.D. Pa. 1985).

We note that President Clinton instructed agencies in October, 1993, to ensure compliance with both the spirit as well as the letter of the Act. See President Clinton's FOIA Memorandum, U.S. Department of Justice, FOIA Update, Summer/Fall 1993, at 3. In addition, Attorney General Reno issued a FOIA Memorandum in October, 1993, which *inter alia* states "I strongly encourage your FOIA officers to make 'discretionary disclosures' whenever possible under the Act," and orders "a presumption of disclosure." See Attorney General Reno's FOIA Memorandum, U.S. Department of Justice, FOIA Update, Spring 1994, at 1-2.

Judicial Watch of Florida also respectfully requests a blanket fee waiver on behalf of the public interest, to which it is entitled under 5 U.S.C. § 552(a)(4)(A); *see also*, *Larson v. Central Intelligence Agency*, 843 F.2d 1482, 1483 (D.C.Cir. 1988); *National Sec. Archive v. U.S. Dept. of Defense*, 880 F.2d 1381, 1385-87 (D.C.Cir. 1989); *see also*, *Judicial Watch, Inc. v. United States Dep't. of Commerce*, No. 95-0133 (D.D.C. May 16, 1995) (order granting Judicial Watch, Inc.'s request for fee waiver with regard to all responsive documents in proceeding).

Judicial Watch of Florida, Inc. is a non-profit, 501(c)(4) organization which specializes in deterring, monitoring, uncovering, and addressing public corruption in government. Judicial Watch of Florida has and will hold Republicans, Democrats, Independents, and others equally accountable to ethical and legal standards for honest and open government.

The requester has no commercial purpose as a 501(c)(4) non-profit organization organized exclusively to improve the ethical and legal standards in government, accountability of government officials to the rule of law, and public understanding of government operations.

Judicial Watch of Florida will also use the requested material to promote accountable government as a representative of the news media and the public in accordance with a second category provided under 5 U.S.C. § 552(a)(4)(A)(ii)(II) and *National Sec. Archive v. U.S. Dept. of Defense*, 880 F.2d 1381, 1385-87 (D.C.Cir. 1989), by disseminating relevant information

which may be uncovered. Information will benefit the public by identifying areas for future reform as well as deterring future abuses that could otherwise proliferate without scrutiny.

The subject of this request is information concerning the operations and activities of the government. Past experience of Judicial Watch demonstrates the success of Judicial Watch in uncovering important facts about government activities, integrity and operations, of broad concern to the public. Thus, Judicial Watch's request is likely to "contribute significantly" to the public's understanding of the operations of their government, satisfying the requirements of FOIA fee waiver provisions. Judicial Watch's capabilities and effectiveness are a matter of public record.

Immediate release of the requested information is in the public interest, including for promoting confidence in an honest democratic system, and furthering the integrity of the American national government by deterring and/or sanctioning corrupt activities. The failure to do so will likely result in the further compromise of important interests of the American people.

Sincerely,

JUDICIAL WATCH OF FLORIDA, INC.

A handwritten signature in black ink that reads "Larry Klayman" followed by a date "10/00". The signature is written in a cursive, slightly slanted style.

Larry Klayman, Esq.

# CIVIL COVER SHEET 00-2142

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September, 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

JUDICIAL WATCH OF FLORIDA, INC.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Dade  
(EXCEPT IN U.S. PLAINTIFF CASES)

A. Dade / 1:00cv 2142 / Lenard / Turnoff

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
Larry Klayman, Esq. (202) 646-5172  
Judicial Watch, Inc.  
501 School St., SE, Suite 725  
Washington, DC 20024

DEFENDANTS Immigration and Naturalization  
Service; U.S. Department of Justice  
MAGISTRATE JUDGE  
TURNOFF

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, THE LOCATION OF THE TRACT OF LAND INVOLVED. **NIGHT BOX FILED**

ATTORNEYS (IF KNOWN)

JUN 14 2000

(d) CIRCLE COUNTY WHERE ACTION AROSE: DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS

## II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff  
☒ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## V. NATURE OF SUIT

(PLACE AN "X" IN ONE BOX ONLY)

A CONTRACT	A TORTS	FORFEITURE/PENALTY	A BANKRUPTCY	A OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> B 610 Agriculture <input type="checkbox"/> B 620 Other Food & Drug <input type="checkbox"/> B 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> B 630 Liquor Laws <input type="checkbox"/> B 640 R.R. & Truck <input type="checkbox"/> B 650 Airline Regs. <input type="checkbox"/> B 660 Occupational Safety/Health <input type="checkbox"/> B 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>A PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>B SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1995ff) <input type="checkbox"/> 862 Black Lung (1925) <input type="checkbox"/> 863 DIWC/DIWW (4059g) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (4059g) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> A 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> A 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 480 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions A OR B
<b>A REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>A CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <b>PRISONER PETITIONS</b> <input type="checkbox"/> B 510 Motions to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> B 530 General <input type="checkbox"/> A 535 Death Penalty <input type="checkbox"/> B 540 Mandamus & Other <input type="checkbox"/> B 550 Civil Rights <input type="checkbox"/> B 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor Mgmt. Relations <input type="checkbox"/> 730 Labor Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> A 791 Empl. Ret. Inc. Security Act		

## VI. CAUSE OF ACTION

CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE  
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Freedom of Information Act, 5 U.S.C. Section 552 et seq. FOIA suit to compel production of documents.  
LENGTH OF TRIAL via 5 days estimated (for both sides to try entire case)

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
☐ UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NO

## VIII. RELATED CASE(S) IF ANY

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

6/13/00

FOR OFFICE USE ONLY

Larry Klayman

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

\$150.00 823649

06/15/00